

Exhibit 9

*State of California ex. rel. Ven-A-Care of the Florida Keys, Inc. v.
Abbott Laboratories, Inc., et al.*

Exhibit to the Declaration of Nicholas N. Paul in Support of Plaintiffs' Motion for Summary
Judgment as to Defendant Mylan

NO. D-1-GV-07-001259

THE STATE OF TEXAS) IN THE DISTRICT COURT
)
ex rel.)
VEN-A-CARE OF THE)
FLORIDA KEYS, INC.,)
)
Plaintiffs,)
)
VS.) TRAVIS COUNTY, TEXAS
)
SANDOZ, INC. f/k/a GENEVA)
PHARMACEUTICALS, INC.,)
NOVARTIS PHARMACEUTICAL)
CORP., NOVARTIS AG, EON)
LABS, APOTHECON, INC.,)
)
MYLAN PHARMACEUTICALS, INC.,)
MYLAN LABORATORIES, INC.,)
UDL LABORATORIES, INC.)
)
TEVA PHARMACEUTICALS USA,)
INC., f/k/a LEMMON)
PHARMACEUTICALS, INC.,)
COPLEY PHARMACEUTICALS,)
INC., IVAX PHARMACEUTICALS,)
INC., SICOR PHARMACEUTICALS,)
INC., TEVA NOVOPHARM, INC.,)
and TEVA PHARMACEUTICAL)
INDUSTRIES, LTD.)
Defendants.) 201ST JUDICIAL DISTRICT

ORAL AND VIDEOTAPED DEPOSITION OF

ROBERT GEORGE CUNARD

OCTOBER 30TH, 2008

Cynthia Vohlken, CSR
(512) 364-8166

85b641cd-4309-40e5-968f-9d553eceb255

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL)
INDUSTRY AVERAGE WHOLESALE) MDL No. 1456
PRICE LITIGATION) Master File No.
01-12257-PBS
THIS DOCUMENT RELATES TO:)
Judge Patti B. Saris
State of California, ex rel.)
Ven-A-Care v. Abbott) Magistrate
Laboratories, Inc., et al.) Judge Marianne Bowler
Cause No. 03-cv-11226-PBS)

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

In the Matter of: Master Docket No.
CV-2005-219
ALABAMA MEDICAID PHARMACEUTICAL
AVERAGE WHOLESALE PRICE LITIGATION

This Document Relates To:

State of Alabama v. Mylan Laboratories, Inc.
No. 2005-219.50

State of Alabama v. Mylan Pharmaceuticals, Inc.
No. 2005-219.51

State of Alabama v. UDL Laboratories, Inc.
No. 2005-219.72

Cynthia Vohlken, CSR
(512) 364-8166

1 question, then, in Exhibit 8? Why are you -- why are
2 you having your subordinate go get that information
3 for you?

4 A. I believe I've answered that in saying
5 changes in these things could impact our -- our
6 customers and their profitability that could
7 indirectly turn into an issue for me, and it's a part
8 of understanding our customer base and what drives
9 their business.

10 Q. So changing in the reimbursement model could
11 affect the customer's profitability, correct?

12 MR. ESCOBAR: Objection for the form.

13 Q. (BY MR. BREEN) Is that what you just said?

14 A. I don't believe that's exactly what I said,
15 but I would agree that -- that changes in
16 reimbursement could impact our customers'
17 profitability. In fact, I believe I've read things
18 like that in -- in press releases by chain pharmacies
19 and other customers.

20 Q. All right. I'm going to ask this question
21 and -- and, if you don't understand it, I want you to
22 tell me. And if -- I'll do everything I can to get
23 this -- get this question so it even satisfies
24 everybody.

25 Were you ever aware anytime you were at

1 Mylan that Mylan's reported average wholesale prices
2 could affect Medicaid reimbursement in either
3 California, Florida, Texas or any other state?

4 A. I believe I've already testified to the fact
5 that I'm aware that AWP is one element that could be
6 used in determining pharmacy reimbursement.

7 Q. So you were aware, then, that if Mylan
8 increased its AWP without increasing the actual cost
9 to the customer, it could cause the state Medicaid
10 programs to pay the customer more -- more money,
11 resulting in more profit on Mylan's products, correct?

12 MR. ESCOBAR: Objection for the form.

13 THE WITNESS: Once again, I can't say
14 that without understanding what the methodology was
15 for the state to -- to use that.

16 Q. (BY MR. BREEN) Okay. So is it your
17 testimony to the Court and the jury that the whole
18 time you were at Mylan Labs you never knew that
19 Mylan's increasing its AWP's could affect the
20 customers' profit based upon Medicaid reimbursement?

21 MR. ESCOBAR: Objection for the form.

22 Q. (BY MR. BREEN) Is that your testimony?

23 A. As indicated, I'm not aware, without
24 understanding the methodology for which it was
25 applied, how to influence my customers' profitability.